

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

ANDREW SIFFERT,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:22-cv-00272
)	
SPORT PONTOONS, LLC, et al.,)	
)	
Defendants.)	
)	

DEFENDANT MITCHELL HORNER’S MOTION TO DISMISS

Comes Defendant Mitchell Horner, by and through attorney Frank P. Pinchak, both of whom appear specially for the limited purpose of seeking dismissal of the Complaint, and respectfully moves for an Order pursuant to Rules 12(b)(2) and (5) of the Federal Rules of Civil Procedure dismissing this case against solely this Defendant for lack of personal jurisdiction and on account of insufficient service of process.

In support of this Motion said Mitchell Horner would show as follows:

1. That Plaintiff has filed a return of service claiming that Mitchell Horner was served with summons in this matter on November 15, 2022 at 7619 Hixson Pike, Hixson, TN 37343. See Court File Document 3; Page ID #80.

2. That said address is the address of Sport Pontoons, LLC, where Mitchell Horner formerly worked until his resignation many months earlier. Said Mitchell Horner had resigned from Sport Pontoons, LLC in June 2022. He was not present at that location on November 15, 2022, and he had not authorized anyone at that location to accept service of the summons for him.

3. That contrary to the return of service filed with the Court, said Mitchell Horner has never been served with summons in this case.

4. That Mitchell Horner is a citizen and resident of Georgia. Paragraph 8 of the Complaint correctly alleges his address as the place where he should be served with summons.

Defendant files herewith the Declaration of Mitchell Horner and a Brief in Support hereof.

Respectfully submitted,

BURNETTE, DOBSON & PINCHAK

By: Frank P. Pinchak
Frank Pinchak, BPR #02094
Attorney for Defendant Mitchell Horner
711 Cherry Street
Chattanooga, TN 37402
Phone: (423) 266-2121
Fax: (423) 266-3324
fpinchak@bdplawfirm.com

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of December 2022, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

By: s/ Frank P. Pinchak